



Amy L. Alvarez
Federal Government Affairs

Suite 1000
1120 20th Street, NW
Washington DC 20036
202-457-2315
FAX 281-664-9610

August 10, 2005

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Room TWB-204
Washington, DC 20554

Re: **Regulation of Prepaid Calling Card Services, WC Docket No. 05-68;**
Federal-State Joint Board on Universal Service, WC Docket No. 96-45;
Developing a Unified Inter-carrier Compensation Regime, WC Docket 01-92

Dear Ms. Dortch:

Yesterday Robert Quinn and I met with Scott Bergmann, Legal Advisor to Commissioner Adelstein. During the meeting we discussed AT&T's proposed procedures for prepaid card providers to certify compliance with interim rules relating to USF and access charge treatment of prepaid calling card services. The attached document served as the basis of the discussion.

As part of this conversation, we also expressed the urgent need for the Commission to adopt the Inter-carrier Compensation Forum ("ICF") Plan which will resolve the problems in the current inter-carrier compensation system and eliminate uneconomic arbitrage opportunities created by existing regulations. In addition, we also discussed ICF's proposal to reform universal service and referenced the July 29, 2005 ex parte filed by ICF that contains projected monthly per unit USF assessment charges if the Commission were to adopt a telephone numbers-based contribution mechanism.

One electronic copy of this Notice is being submitted to the Secretary of the FCC in accordance with Section 1.1206 of the Commission's rules.

Sincerely,

A handwritten signature in cursive script, reading "Amy L. Alvarez".



Judy Sello
Senior Attorney

Room 3A229
One AT&T Way
Bedminster, NJ 07921
Tel.: 908-532-1846
Fax: 908-532-1218
Email: jsello@att.com

July 15, 2005

Ex Parte

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW, Room TWB-204
Washington, DC 20554

Re: *In the Matter of Regulation of Prepaid Calling Card Services*
WC Docket No. 05-68

Dear Ms. Dortch:

AT&T Corp. ("AT&T") submits this *ex parte* in support of AT&T's Emergency Petition for Immediate Interim Relief filed May 3, 2005 ("Petition") in the above-referenced proceeding. In Attachment A hereto, we propose a set of procedures for prepaid card providers to certify compliance with interim rules relating to USF and access charge treatment of prepaid calling card services.

In its Petition, AT&T stressed the urgent need for the Commission to adopt interim rules to advance universal service and establish regulatory neutrality for all prepaid calling services pending resolution of the rulemaking in this docket. In particular, AT&T asked the Commission to affirm that USF should be assessed on all prepaid card services, with an exception for those cards sold to the military, and that the Commission should revoke the Enhanced Service Provider exemption from the payment of switched access charges for all prepaid card services until it ultimately determines whether the services at issue are telecommunications services or information services in this rulemaking. AT&T also urged the Commission to recognize that prepaid calling card services are *interstate* in nature such that 100% of revenues would be subject to USF assessment and interstate access charges would apply to all prepaid calls.

Alternatively, the Commission could conclude that access charges be applied on the basis of the location of the end-user calling and called parties. In all events, AT&T urged the Commission to take measures to ensure the enforceability of its interim rules. Certification by PPC providers is required to foster transparency, prevent evasion, facilitate enforcement, and restore fairness to the PPC market. Only by requiring prepaid card providers to provide certifications will the FCC ensure compliance with its rules. In Attachment A, AT&T sets forth a certification mechanism.

Certification Process

Under the certification process that AT&T proposes, each provider of prepaid card services would be required to provide a certification, regardless of the regulatory classification of its service (as telecommunications service or information service) and regardless of whether its PPC service is provided as part of a bundled package of services to end users or to other entities.

Specifically, those facilities-based PPC providers that sell prepaid card services on an *end-to-end* (calling party-to-called party) basis will certify on behalf of themselves and their reseller customers.

Those PPC providers that operate, or direct the operation of, PPC platforms and purchase transport from other entities to provide PPC services will certify on behalf of themselves, their underlying transport providers, and their reseller customers.

Each PPC provider, as defined above, would submit its report and certification to the FCC on the last day of each calendar quarter with respect to the immediately preceding calendar quarter. The certification would be filed publicly.

Access Charges

Each certifying provider would set forth the percentage of its total PPC minutes that are, respectively, *interstate*, *intrastate* and *international*, for the reporting period, calculated in each case based on the location of the end-user calling and called parties. It would also set forth the percentage of its total PPC minutes for which it expects to be billed interstate and intrastate access, respectively.

If the jurisdiction of the call cannot be determined based on the CPN of the calling party transmitted through the SS7 signaling stream, the certifying PPC provider must certify that it has provided the correct percentage of interstate *versus* intrastate minutes (PIU) for PPC calls based on the location of the end-user calling and called parties to each entity involved in transporting the traffic, including any provider of transport services and local exchange carriers.

If a PPC provider is using an unaffiliated transport provider, and fails to supply the transport provider with the specified PPC PIU factors, the transport provider shall, notwithstanding any contract or tariff provision to the contrary otherwise in effect between

the parties, treat that PPC provider's traffic as subject to a 50 percent default PIU for both (a) access reporting to LECs (and any other intermediate entity involved in transporting the call), and (b) billing of transport services to the PPC provider.

The certifying PPC provider, and any intermediate entity involved in transporting the call, must expressly acknowledge that the LEC has the right to audit all such PIU reports, including the right to audit the PPC provider for call detail and routing information, irrespective of whether the PPC provider has a direct relationship to the auditing LEC. In addition, the LEC has the right to hold the PPC provider responsible for any intermediate entity involved in transporting PPC traffic to cause access charges to be paid on such traffic based on the location of the end-user calling and called parties.

The certification would include a statement that neither the certifying PPC provider nor any intermediate entity involved in transporting the traffic is relying on (i) routing arrangements that could make it difficult to identify accurately the jurisdiction of the end-to-end PPC call for purposes of ensuring compliance with these rules, and / or (ii) any regulatory classification or legal construct that would permit the PPC or its underlying transport provider to avoid access charges that the Commission's rules would require of any end-to-end basic service PPC provider.

If the certifying PPC provider does not pass end-user CPN, it must certify that neither it nor any other intermediate entity involved in transporting the traffic is substituting platform CPN or any other geographically-significant number, carrier identification code or signaling parameter that could cause the terminating LEC to bill access charges based on CPN that does not accurately reflect the location of the calling party.

The certifying PPC provider must certify that neither it nor any intermediate entity involved in transporting the call is relying on the ESP exemption or any other access charge exemption to use POTS numbers, local business services and / interconnection trunks instead of paying access to originate and / or terminate PPC calls over the PSTN that on an end-to-end (calling party-to-called party) basis would not be local calls if dialed on a direct-dialed basis without the use of a PPC.

Universal Service

As to universal service, each certifying PPC provider would certify to the FCC the percentage of total PPC service revenues that are, respectively, interstate and international and therefore each subject to federal universal service assessments for the reporting period.

It would further certify that it is contributing to the federal universal service fund based on the interstate or international revenues it derives from its provision of PPC services, and that it is excluding only PPC revenues associated with cards sold by, to, or on behalf of military exchanges or the Department of Defense, from the foregoing revenues reported for universal service assessments.

The need for such reporting and certification mechanisms is amply justified to ensure that the Commission's universal service objectives are achieved and that prepaid card providers operate on a level regulatory playing field that prevents them from gaining unfair competitive advantages based upon their ability to cloak their conduct from full and fair scrutiny. These additional requirements will help assure the nondiscriminatory enforcement of the Commission's interim rules against *all* providers of prepaid calling services.

One electronic copy of this Notice is being submitted in accordance with the Commission's rules.

Sincerely,

/s/

Judy Sello

Encl: Attachment A

cc: Daniel Gonzalez
Michelle Carey
Tom Navin
Tamara Preiss
Steve Morris

ATTACHMENT A

PREPAID CARD CERTIFICATION PROCESS

Who must certify?

Prepaid Card Services Defined: Prepaid card services (PPC) are those that allow users to pay in advance for a specified amount of calling, whether by card, virtual card, or PIN-based, serial number-based, or some other account identification mechanism, where the service requires such calls to be originated by the end-user: (a)(i) by first dialing or entering a designated number to reach a platform or specified network access point for verification of the user's prepaid account status as a precondition to use of the provider's services; and (ii) upon verification, dialing or entering the number of the called party; (b) without regard to the technology used to provide service, to additional features, functions, or capabilities available through, in conjunction with or in addition to calling services, or to whether the provider uses the telecommunications or telecommunications services of one or more unaffiliated entities in provisioning such services.

Each PPC Provider, as defined below, must provide a certification, regardless of the regulatory classification of its service (as telecommunications service, information service or other nonregulated service) and regardless of whether its PPC service is provided as part of a bundled package of services to end users or to other entities.

Prepaid Card Provider (or PPC provider): Each and every entity that provides prepaid card services, through its own facilities or via resale, shall individually or through its underlying telecommunications provider, submit a certification signed by an officer, under penalty of perjury, attesting to compliance with the FCC's rules regarding access charges and universal service contributions for prepaid card services.

(A) Those facilities-based PPC providers that sell prepaid card services on an *end-to-end* (calling party-to-called party) basis to: (i) end-user customers and / or (ii) other entities that resell their prepaid card services, will certify on behalf of themselves and their reseller customers.

(B) Those PPC providers that operate, or direct the operation of, PPC platforms and purchase transport in whole or in part from other entities to provide PPC services to: (i) end-user customers and / or (ii) other entities that resell their prepaid card services, will certify on behalf of themselves, their underlying transport providers, and their reseller customers.

(C) Those PPC providers whose operations are limited to reselling end-to-end prepaid card services provided by PPC providers described in (A) or (B) above do not need to submit any certification under this rule, provided that such PPC providers have obtained adequate assurances from the underlying PPC providers that all certifications required under this rule have been properly filed.

What facts must be certified?

Each certifying prepaid card provider, as defined in (A) and (B) above, shall report and certify compliance with the FCC's interim rules regarding PPC services, as follows:

Access – Each certifying PPC provider shall certify to the FCC:

- the percentage of its total PPC minutes that are, respectively, *interstate*, *intrastate* and *international*, for the reporting period, calculated in each case based on the location of the end-user calling and called parties; and
- the percentage of total PPC minutes for which the certifying PPC provider expects to be billed or have been billed, or expects to enable any intermediate entity involved in transporting the call (including transport carriers (*e.g.*, interexchange carriers) and local exchange carriers (LECs)) to be billed or have been billed, *interstate* access charges for the reporting period;
- the percentage of total PPC minutes for which the certifying PPC provider expects to be billed or have been billed, or expects to enable any intermediate entity involved in transporting the call to be billed or have been billed, *intrastate* access charges for the reporting period;
- when the PPC provider purchases transport from an unaffiliated entity, it has disclosed to that entity the fact that it is purchasing transport for purposes of a PPC offering;
- where the jurisdiction of a PPC call (based on the location of the end-user calling and called parties) cannot be determined based on the CPN of the calling party or other information transmitted through the SS7 signaling stream, the certifying PPC provider has provided, either directly or indirectly through any intermediate entities involved in transporting the call, to any intermediate entity involved in transporting the call (including transport carriers (*e.g.*, interexchange carriers) and local exchange carriers (LECs)) the correct percentage of interstate (including international) *versus* intrastate minutes for PPC calls based on the location of the end-user calling and called parties;
- the certifying PPC provider is paying, or is enabling its transport provider to pay, access for PPC calls based on the location of the end-user calling and called parties;
- neither the certifying PPC provider, any intermediate entity involved in transporting the call nor the originating LEC is relying on (i) routing arrangements that could make it difficult to identify accurately the jurisdiction of the end-to-end (calling party-to-called party) PPC call for purposes of ensuring compliance with these rules, and / or (ii) any regulatory classification or legal construct that purports to permit the PPC provider or its underlying transport provider to avoid access charges that the Commission's rules would require of any end-to-end basic service PPC provider;

-if the certifying PPC provider does not pass end-user CPN or other information that can be used to determine the correct jurisdiction of the call, neither it, any intermediate entity involved in transporting the call nor the originating LEC is substituting platform CPN or any other geographically-significant number, carrier identification code or signaling parameter that could cause the terminating LEC to bill access charges based on CPN that does not accurately reflect the location of the calling party;

-if the certifying PPC provider does not pass end-user CPN or other information that can be used to determine the correct jurisdiction of the call, then for purposes of properly billing switched access charges at the terminating end of the call, it (or any intermediate entity involved in transporting the call) is reporting jurisdictional factors, known as percentage of interstate use (PIU), to LECs based on the location of the end-user calling and called parties with respect to PPC traffic;

-for purposes of properly billing switched access charges at the originating end of the call, for PPC calls placed using 8YY services, the certifying PPC provider (or any intermediate entity involved in transporting the call) is reporting PIU factors for such originating 8YY services to originating LECs based on the location of the end-user calling and called parties;

-to the extent that a PPC provider is using an unaffiliated transport provider, no later than the 45th day of each calendar quarter, the PPC provider is providing to such transport provider PPC PIU factors and call volumes on which such PIU was calculated (*i.e.*, interstate known minutes divided by the sum of interstate and intrastate known minutes) based on not less than a one-day representative sample for that quarter, and computed separately for originating and terminating traffic, on a state-specific (or more granular) basis; and if the PPC provider fails to do so, the transport provider shall, notwithstanding any contract or tariff provision to the contrary otherwise in effect between the parties, treat that PPC provider's traffic as subject to a 50 percent default PIU for both (a) access reporting to LECs (and any other intermediate entity involved in transporting the call), and (b) billing of transport services to the PPC provider, and in each case the third-party transport provider shall have the right to notify any originating and terminating LEC that it has applied the default PIU to such PPC provider's traffic;

-the certifying PPC provider expressly acknowledges that, the LEC has the right to (a) audit PIU reports provided to the LEC and / or any underlying transport provider, including the right to audit the PPC provider for call detail and routing information, irrespective of whether the PPC provider has a direct relationship to the auditing LEC, and (b) hold the PPC provider responsible for failure of any intermediate entity involved in transporting the PPC provider's traffic to cause access charges to be paid on such traffic to the originating and terminating LECs based on the location of the end-user calling and called parties;

-the certifying PPC provider acknowledges that, notwithstanding any contract or tariff provision to the contrary otherwise in effect between the parties, any intermediate entity involved in transporting the call is entitled to: (a) rely on PIUs provided by PPC providers for purposes of reporting PIUs to the LECs, and (b) disclose to the LEC or any other intermediate entity involved in transporting the call the PIU data received from the PPC provider, upon request;

-neither the certifying PPC provider nor any intermediate entity involved in transporting the call is relying on the ESP exemption or any other access charge exemption to use POTS numbers, local business services and / or interconnection trunks instead of paying access to originate and / or terminate PPC calls over the PSTN that on an end-to-end (calling party-to-called party) basis would not be local calls if dialed on a direct-dialed basis without the use of a PPC;

-the certifying PPC provider is relying exclusively on switched access to originate and terminate PPC calls over the PSTN that would not be local calls if dialed on a direct-dialed basis without the use of a PPC;

For purposes of this certification, any reference to "location of the end-user called party" shall be deemed to refer to the location of the PPC platform in cases where there is no terminating leg of a call from the PPC platform to an end-user called party (e.g., because the call is not completed, or because the call solely involves interaction with the PPC platform).

Universal Service – Each certifying PPC provider shall certify to the FCC:

-the percentage of total PPC service revenues that are, respectively: (i) interstate and (ii) international and therefore subject, in each case, to federal universal service assessments for the reporting period; that

-it is contributing to the federal universal service fund based on the interstate or international revenues it derives from its provision of PPC services;

-it is excluding only PPC revenues associated with cards sold by, to, or on behalf of military exchanges or the Department of Defense from the foregoing revenues reported for universal service assessments;

When must PPC provider certifications be made?

-Each PPC provider, as defined above, shall submit its report and certification to the FCC on the last day of each calendar quarter with respect to the immediately preceding calendar quarter.

How would certifications be filed?

-Certifications shall be publicly filed on the FCC's ECFS website under WC Docket No. 05-68, *Regulation of Prepaid Calling Card Services*.

Why are certifications required?

-Certifications by PPC providers are required to foster transparency, prevent evasion, facilitate enforcement, and restore fairness to the PPC market. Only by requiring the prepaid card providers to provide certifications will the FCC ensure compliance with its rules.